

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION

MDL NO. 2804

Hon. Dan Aaron Polster

Filed on Behalf of All Entities on Exhibit A

MOTION TO AMEND EXHIBIT G OF THE
DISTRIBUTORS' SETTLEMENT AGREEMENT AND
BRIEF IN SUPPORT THEREOF

COME NOW the entities listed on Exhibit "A" through their undersigned counsel, and file this Motion to Amend Exhibit G to the Distributors' Settlement Agreement dated September 18, 2021 to reflect that they are to be listed on Exhibit G. Specifically, New York State's Settlement Agreement acknowledged that each of these affected subdivisions are litigating subdivisions as the State of New York has listed the entities as Primary Subdivisions and as Litigating Subdivisions. See Exhibit "B." Therefore, it is appropriate to permit Exhibit G to be amended to include each of these entities as government entities which were participating and litigating prior to the initial participation date.

Here, the Attorney General for the State of New York, currently subject to a lawsuit to enjoin the enforcement of the New York State Mental Hygiene Law, has acknowledged that the Exhibit A entities did not receive the administrative notice and portal access to upload the participation documents. However, after confirming this oversight, Special Counsel for the New York Attorney General, Andrew Amer, instructed that all necessary participation documents be sent to him directly and that he would forward them to the Notice Administrator to ensure proper receipt

of the documents and inclusion. To that end, Special Counsel Amer agreed to submit all participation documents to the Notice Administrator for the incorporated entities listed on Exhibit A to be noted as participating. See Exhibit “C” - Email correspondence with Special Counsel Andrew Amer.

In short, it is clear that New York intended that Exhibit A entities be included for participation in the contingent fee fund.

In order for the state of New York to maximize its payments, it was of critical import that one hundred percent of participating litigation entities participate. The moving entities clearly contributed to reaching the necessary participation rate.

Exhibit “D” shows the non-statute barred cases. These entities are on Exhibit G making their counsel eligible for contingent fee fund participation. There is clearly no reason to bar contingent fee fund participation given the work of counsel and these filings role in maximizing the state of New York’s compensation.

In fact, the statute bar is retroactive and that retroactive bar date plays little if any role in contingent fee fund participation by National Exhibit G listing.

One case listed as non statute barred is that of Buffalo City with a population of 255,284. It was filed after the statute bar date of June 30, 2019.

There was no advance notice to these filing entities of a retroactive bar date which would allow them to oppose any retro bar legislation.

There is no way to legitimately cut off Exhibit G inclusion as all these entities are litigating and participating entities.

In fact, counsel for Cardinal Health, Inc., Elaine Golin, acknowledged that necessary

participation agreements were received from the incorporated entities listed on Exhibit A. See Exhibit “E” - Letter to Elaine Golin.

It is clear, based on these incontrovertible facts, as demonstrated by the exhibits and correspondence attached hereto, it is merely an oversight and each of these entities should be listed on Exhibit G for all purposes relevant to being listed on Exhibit G.

Respectfully submitted this 8th day of June, 2022.

/s/ Mark A. Tate
Mark A. Tate
Georgia State Bar No. 698820
tlgservice@tatelawgroup.com
(912) 234-3030
25 Bull Street. Second Floor
Savannah, Georgia 31401

CERTIFICATE OF SERVICE

I hereby certify that I have served to all counsel of record Motion to Amend Exhibit G of the Distributors' Settlement Agreement via the CM/ECF system.

Dated: June 8, 2022.

/s/ Mark A. Tate
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Georgia State Bar No. 698820
tlgservice@tatelawgroup.com
(912) 234-3030
25 Bull Street, Second Floor
Savannah, Georgia 31401